

Legal Notice

Village of Kingsley, Notice of Adoption

Please take notice that on Monday, November 13, 2017 at 6:00 p.m., in the Village Hall, 207 S. Brownson Ave, Kingsley, MI 49649, The Village Council adopted the following Ordinance.

VILLAGE OF KINGSLEY  
ORDINANCE AUTHORIZING MEDICAL MARIHUANA FACILITES  
ORDINANCE NO. 17-03

At a regular meeting of the Village Council of Kingsley, County of Grand Traverse, Michigan, held at the Kingsley Village offices on November 13, 2017, at 6 pm, Village Council Member Walton, Moved to adopt the following police power Ordinance, which motion was seconded by Village Council Member McPherson:

*An Ordinance to implement certain provisions of the Medical Marihuana Facilities Licensing Act, Act 281 of 2016, which authorizes the licensing and regulation of Marihuana Facilities, and affords the Village of Kingsley the ability to regulate the number and type of Marihuana Facilities, in order to maintain the public health, safety and welfare within the Village.*

That the Kingsley Village Code is hereby amended by adding a section, to be numbered Chapter 154, which the section reads as follows:

CHAPTER 154: MEDICAL MARIHUANA FACILITES

**§154.001 Purpose**

- A. It is the intent of this ordinance to authorize the establishment of certain types of medical marihuana facilities in the Village of Kingsley and provide for the adoption of reasonable restrictions to protect the public health, safety, and general welfare of the community at large; retain the character of neighborhoods; and mitigate potential impacts on surrounding properties and persons. It is also the intent of this ordinance to help defray administrative and enforcement costs associated with the operation of a marihuana facility in the Village of Kingsley through imposition of an annual, nonrefundable fee of not more than \$5,000.00 on each medical marihuana facility licensee. Authority for the enactment of these provisions is set forth in the Medical Marihuana Facilities Licensing Act, MCL 333.27101 et seq.
- B. Nothing in this ordinance is intended to grant immunity from criminal or civil prosecution, penalty, or sanction for the cultivation, manufacture, possession, use, sale, or distribution of marihuana, in any form, that is not in compliance with the Michigan Medical Marihuana Act, Initiated Law 1 of 2008, MCL 333.26421 et seq.; the Medical Marihuana Facilities Licensing Act, MCL 333.27101 et seq.; the Marihuana Tracking Act, MCL 333.27901 et seq.; and all

other applicable rules promulgated by the state of Michigan.

- C. As of the effective date of this ordinance, marihuana remains classified as a Schedule 1 controlled substance under the Federal Controlled Substances Act, 21 U.S.C. Sec. 801 et seq., which makes it unlawful to manufacture, distribute, or dispense marihuana, or possess marihuana with intent to manufacture, distribute, or dispense marihuana. Nothing in this ordinance is intended to grant immunity from any criminal prosecution under federal laws.

**§154.002 Definitions**

For the purposes of this ordinance:

- A. Any term defined by the Michigan Medical Marihuana Act, MCL 333.26421 et seq., shall have the definition given in the Michigan Medical Marihuana Act.
- B. Any term defined by the Medical Marihuana Facilities Licensing Act, MCL 333.27101 et seq., shall have the definition given in the Medical Marihuana Facilities Licensing Act.
- C. Any term defined by the Marihuana Tracking Act, MCL 333.27901 et seq., shall have the definition given in the Marihuana Tracking Act.
- D. "Grower" means a Licensee that is a commercial entity located in this state that cultivates, dries, trims, or cures and packages marihuana for sale to a processor or provisioning center, consistent with PA 281 of 2016.
- E. "Licensee" means a person holding a State Operating License, consistent with PA 281 of 2016.
- F. "Marijuana" or "marihuana" means that term as defined in the Public Health Code, MCL 333.1101 et seq.; the Michigan Medical Marihuana Act, MCL 333.26421 et seq.; the Medical Marihuana Facilities Licensing Act, MCL 333.27101 et seq.; and the Marihuana Tracking Act, MCL 333.27901 et seq.
- G. "Marijuana Facility" means a commercial enterprise at a specific location at which a licensee is licensed to operate under the Medical Marihuana Facilities Licensing Act, MCL 333.27101 et seq., including a marihuana grower, marihuana processor, marihuana provisioning center, marihuana secure transporter, or marihuana safety compliance facility. The term does not include or apply to a "primary caregiver" or "caregiver" as that term is defined in the Michigan Medical Marihuana Act, MCL 333.26421 et seq.
- H. "Marihuana Plant" means any plant of the species *Cannabis sativa* L, consistent with PA 281 of 2016.
- I. "Marihuana-infused Product" means a topical formulation, tincture, beverage, edible substance, or similar product containing any usable marihuana that is intended for human consumption in a manner other than smoke inhalation. Marihuana-infused product shall not be considered a food for purposes of the food law, 2000 PA 92, MCL 289.1101 to 289.8111, consistent with PA 281 of 2016.

- J. "Permit" means a special use permit issued for a Marihuana Facility.
- K. "Permit Holder" means the Person that has been issued a Permit under this Code of Ordinances.
- L. "Permitted Premises" means the particular building or buildings within which the Permit holder is authorized to conduct Marihuana Facilities activities.
- M. "Permitted Property" means the real property comprised of a lot, parcel(s), or other designated unit of real property upon which the Permitted Premises is situated.
- N. "Person" means an individual, corporation, limited liability company, partnership, limited partnership, limited liability partnership, limited liability limited partnership, trust, or other legal entity.
- O. "Processor" means a Licensee that is a commercial entity located in this state that purchases Marihuana from a grower and that extracts resin from the Marihuana or creates a Marihuana-infused Product for sale and transfer in packaged form to a provisioning center, consistent with PA 281 of 2016.
- P. "Provisioning center" means a licensee that is a commercial entity located in Michigan that purchases marihuana from a grower or processor and sells, supplies, or provides marihuana to registered qualifying patients, directly or through the patients' registered primary caregivers. Provisioning center includes any commercial property where marihuana is sold at retail to registered qualifying patients or registered primary caregivers. A noncommercial location used by a primary caregiver to assist a qualifying patient connected to the caregiver in accordance with the Michigan Medical Marihuana Act, MCL 333.26421 et seq., is not a provisioning center for purposes of this article.
- Q. "Safety Compliance Facility" means a Licensee that is a commercial entity that receives Marihuana from a Marihuana Facility or registered primary caregiver, tests it for contaminants and for tetrahydrocannabinol and other cannabinoids, returns the test results, and may return the Marihuana to the Marihuana Facility, consistent with PA 281 of 2016.
- R. "Secure Transporter" means a Licensee that is a commercial entity located in this state that stores Marihuana and transports Marihuana between Marihuana facilities for a fee, consistent with PA 281 of 2016.
- S. "State Operating License" or, unless the context requires a different meaning, "License" means a license that is issued under PA 281 of 2016 that allows the Licensee to operate as 1 of the following, specified in the license:
  - a. A Grower.
  - b. A Processor.
  - c. A Secure Transporter.
  - d. A Provisioning Center.
  - e. A Safety Compliance Facility.

T. "Village Operating License" means a license that is issued under this Ordinance 17-03.

**§154.003      Marihuana Facilities authorized in the Village of Kingsley and Fee**

A. The maximum number of each type of commercial marihuana facility allowed in the Village of Kingsley shall be as follows.

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|--|-----------|
| a. Marihuana Growing Facility            | Unlimited |
| b. Marihuana Processor Facility          | Unlimited |
| c. Marihuana Safety Compliance Facility  | Unlimited |
| d. Marihuana Secure Transporter Facility | Unlimited |

B. The Village Council may review this section allowing more than one type and number of Marihuana Facilities by resolution as it determines to be advisable. A Village Operating License for a marihuana facility is a revocable privilege granted by the Village and is not a property right. Granting a Village Operating License does not create or vest any right, title, franchise, or other property interest. The Village expressly reserves the right to amend or repeal this ordinance in any way including but not limited to complete elimination of or reduction in the type and/or number of authorized medical marihuana facilities authorized to operate within the Village.

C. A nonrefundable fee shall be paid by each marihuana facility licensed under this ordinance in an annual amount of not more than \$5,000.00 per licensee as set by resolution of the Village Council.

**§154.004      Requirements and Procedure for Issuing License**

A. No person shall operate a marihuana facility in Village of Kingsley without a valid Village Operating License issued by the Village pursuant to the provisions of this ordinance.

B. Every applicant for a license to operate a marihuana facility shall file an application in the Village Manager's office upon a form provided by the Village. The application shall contain the following information.

1. The appropriate non-refundable permit application fee in the amount determined by the Village;
2. If the applicant is an individual, the applicant's name, date of birth, SSN, physical address including residential and any business address(s) attached to the individual, copy of government issued photo identification, email address, and one or more phone numbers, including emergency contact information, and if applicable Federal EIN;

3. If the applicant is not an individual, the names, date of birth, SSN's, physical addresses, including residential and any business address(s), copy of government issued photo identification, email addresses, and one or more phone numbers of each stakeholder and/or general partners of the applicant, including designation of the highest ranking stakeholder and/or general partner as an emergency contact person and contain information for the emergency contact person, articles of incorporation, assumed name registration documents, Internal Revenue Service SS-4, EIN confirmation letter(s), and a copy of the operating agreement of the applicant, if a limited liability company, copy of the partnership agreement, if a partnership, or a copy of the by-laws or shareholder agreement, if a corporation;
  4. The name and address of the proposed Medical Marihuana Facility and any additional contact information deemed necessary and requested by the Village.
  5. One of the following: (a) proof of ownership of the entire premises wherein the Medical Marihuana Facility is to be operated; or (b) written consent from the property owner for use of the premises in a manner requiring a permit under this Ordinance along with a copy of the lease for the premises;
  6. A copy of applicant's application for a state operating license under MCL 333.27401;
- C. Every applicant for a Village Operating License shall submit with the application a photocopy of the applicant's valid and current license issued by the State of Michigan in accordance with the Medical Marihuana Facilities Licensing Act, MCL 333.27101 et seq.
- D. Upon an applicant's completion of the above-provided form and furnishing of all required information and documentation, the Village Manager or zoning administrator shall accept the application and assign it a sequential application number by facility type based on the date and time of acceptance. False information on an application is cause for the board to deny a license. The Village Manager or zoning administrator shall not consider an incomplete application but shall, within a reasonable time, return the application to the applicant with notification of the deficiency and instructions for submitting a corrected application. The Village Manager or zoning administrator shall act to approve or deny an application not later than thirty (30) days from the date the application was accepted. If approved, the Village Manager or zoning administrator shall issue the applicant a provisional license.
- E. A provisional license means only that the applicant has submitted a valid application for a Village Operating License, and the applicant shall not locate or operate a marihuana facility without obtaining all other permits and approvals required by all other applicable ordinances and regulations of the Village. A provisional license will lapse and be void if such permits and approvals are not diligently pursued to completion.
- F. Within thirty (30) days from the applicant submitting proof of obtaining all other required permits and approvals and payment of the license fee, the Village Manager or zoning

administrator shall approve or deny the Village Operating License. The Village Manager or zoning administrator shall issue Village Operating Licenses in order of the sequential application number previously assigned.

- G. Maintaining a valid State Operating License issued by the state is a condition for the issuance and maintenance of a Village Operating License under this ordinance and continued operation of any marihuana facility. A Marihuana Facility and/or holder of a State Operating License must also comply with all other applicable laws, rules or regulations. In addition to this Chapter, a Marihuana Facility and/or holder of a State Operating License must comply with all other lawful requirements under the Code of Ordinances of the Village of Kingsley.
- H. A Village Operating License issued under this ordinance is not transferable.
- I. **The recipient of a Village Operating License must apply for a Special Use Permit no later** than 2 months after receiving the Village Operating License and proceed diligently to obtain the Special Use Permit and Site Plan Approval or the Village Operating License will expire. This time limitation may upon written request be extended by the Village Council if it is demonstrated to the Village Council's reasonable satisfaction the recipient of a Village Operating License is proceeding in good faith and that there is a strong likelihood that the recipient will obtain the Special Use Permit and Site Plan Approval in due course.

**§154.005 Licenses Generally; Minimum Operating Standards for Marihuana Facilities**

- A. To the extent permissible, all information submitted in conjunction with an application for a License or License renewal required by this Ordinance is confidential and exempt from disclosure under the Michigan Freedom of Information Act, 1976 PA 442, MCL 15.231 et.seq.
- B. A Licensee shall report any other change in the information required by this Ordinance to the Village Manager or zoning administrator within ten (10) business days of the change. Failure to do so may result in suspension or revocation of the License.
- C. Consumption and/or use of Marihuana shall be prohibited on the premises of a Marihuana Facility, and a sign shall be posted on the premises indicating that consumption is prohibited on the premises.
- D. The dispensing of Marihuana at any Facility, other than a provisioning center, shall be prohibited.
- E. All growing and activity related to the Marihuana Facility shall be done indoors.
- F. A Marihuana Facility shall not allow the sale, consumption, or use of alcohol or tobacco products on the premises.
- G. No Marihuana Facility shall be located within One Thousand (1,000) feet of real property comprising a public or private elementary, vocational, or secondary school.

- H. It shall be prohibited to use the symbol or image of a Marihuana leaf in any exterior signage.
- I. An authorized medical marihuana facility shall consent to inspection of the facility by Village officials and/or by the County Sheriff's Department, upon reasonable notice, to verify compliance with this ordinance.

**§154.006 License Renewal**

- A. A Village Operating License shall be valid for one year from the date of issuance, unless revoked as provided by law. A Village Operating License is a revocable privilege granted by the Village and is not a property right. Granting a license does not create or vest any right, title, franchise, or other property interest.
- B. A valid Village Operating License may be renewed on an annual basis by submitting a renewal application upon a form provided by the Village and payment of the annual license fee. Application to renew a Village Operating License shall be filed at least thirty (30) days prior to the date of its expiration.

**§154.007 Applicability**

The provisions of this ordinance shall be applicable to all persons and facilities described herein, whether the operations or activities associated with a marihuana facility were established without authorization before the effective date of this ordinance.

**§154.008 Penalties and Enforcement.**

- A. Any person who violates any of the provisions of this Ordinance shall be responsible for a Municipal civil infraction pursuant to Chapter 11 of the Code of Ordinances and subject to the payment of a civil fine of not more than \$500, plus costs. Each day a violation of this Ordinance continues to exist constitutes a separate violation. A violator of this Ordinance shall also be subject to such additional sanctions, remedies and judicial orders as are authorized under Michigan law.
- B. A violation of this Ordinance is deemed to be a nuisance per se. The foregoing sanctions shall be in addition to the rights of the Village to proceed at law or equity with other appropriate and proper remedies (including to bring an action for an injunction) to restrain, prevent, or abate any violation of this Ordinance. Additionally, the violator shall pay costs which may include all expenses, direct and indirect, which the Village incurs in connection with the municipal civil infraction.
- C. This Ordinance shall be enforced and administered by the Village Manager, Village Zoning Administrator, Village Code Enforcement officer, the Grand Traverse County Sheriff and his deputies, or such other village official as may be designated from time to time by resolution of

the Village Council.

**§154.009 Severability.**

In the event that any one or more sections, provisions, phrases or words of this Ordinance shall be found to be invalid by a court of competent jurisdiction, such holding shall not affect the validity or the enforceability of the remaining sections, provisions, phrases or words of this Ordinance.

**§154.010 Effective Date and Repealer**

This ordinance shall be published within fifteen (15) days after final adoption by the Village Council and shall become effective twenty (20) days from the date of publication. All ordinances or parts of ordinances in conflict with any of the provisions of this ordinance are hereby repealed.

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YEAS: Bogart, Walton, McPherson, Weger  
NAYS: King, Alger, Hamilton  
ABSENT/ABSTAIN: None

ORDINANCE DECLARED ADOPTED

  
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Rodney Bogart, Village Council President

CERTIFICATION

I hereby certify that:

1. The above is a true copy of the Ordinance adopted by the Kingsley Village Council at a duly scheduled and noticed meeting of that Village Council held on November 13, 2017, pursuant to the required statutory procedures.
2. The above Ordinance was duly published in the Record Eagle newspaper, a newspaper of general circulation within the Village of Kingsley, on November 25, 2017.
3. Within one (1) week after such publication, I recorded the above Ordinance in a book of ordinances kept by me for that purpose, including the date of passage of the Ordinance, the names of the members of the Village Council voting and how each member voted.

ATTESTED:

  
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Ann Olson, Village of Kingsley Clerk